

Chicago-Kent College of Law Scholarly Commons @ IIT Chicago-Kent College of Law

125th Anniversary Materials

125th Anniversary

2-23-2013

John Montgomery Ward: The Lawyer Who Took On Baseball

Christopher W. Schmidt

Chicago-Kent College of Law, cschmidt@kentlaw.iit.edu

Follow this and additional works at: http://scholarship.kentlaw.iit.edu/docs_125

 Part of the [Legal Commons](#), [Legal Education Commons](#), and the [Legal History Commons](#)

Recommended Citation

Schmidt, Christopher W., "John Montgomery Ward: The Lawyer Who Took On Baseball" (2013). *125th Anniversary Materials*. 8.
http://scholarship.kentlaw.iit.edu/docs_125/8

This Article is brought to you for free and open access by the 125th Anniversary at Scholarly Commons @ IIT Chicago-Kent College of Law. It has been accepted for inclusion in 125th Anniversary Materials by an authorized administrator of Scholarly Commons @ IIT Chicago-Kent College of Law. For more information, please contact dginsberg@kentlaw.iit.edu.



Photo of John Montgomery Ward, 1922, Bain Collection, Library of Congress.

JOHN MONTGOMERY WARD: THE LAWYER WHO TOOK ON BASEBALL

Christopher W. Schmidt

As 1888 drew to a close, John Montgomery Ward stood atop the world of professional baseball. The star shortstop had just led the New York Giants to the National League pennant, followed by a triumph over the St. Louis Browns of the rival American Association in what even then went by the inflated title of baseball's "World Series." A dominating pitcher early in his career (he threw the second perfect game in major league history), an arm injury forced Ward to recreate himself as an infielder, where he became one of the best fielders and hitters of his era. He was lauded in the press as a ballplayer

with "few equals and no superiors," and "by long odds the most popular player in the profession." These accomplishments would eventually earn Ward a place in the Baseball Hall of Fame.

Ward's skills on the ball field were only a part of what made him such a remarkable figure. Contemporaries and historians alike have struggled to describe him. One adjective-happy biographer took the saturation approach: he was a "jug-eared, willowy, peach-fuzzed, overreaching punk" as well as "honorable, smart, and tenacious." More admired than liked seems to have been the consensus view of Ward contemporaries. In a

profession not known for intellectualism, he stood out. Although Ward left school at the age of thirteen in order to pursue his baseball career, he eventually earned, in his spare time, degrees in political science and law from Columbia. He was said to speak five languages. A regular contributor to newspapers and periodicals, in 1888 he published *Baseball: How to Become a Player*, which he described as a “handbook of the game, a picture of the play as seen by a player.”

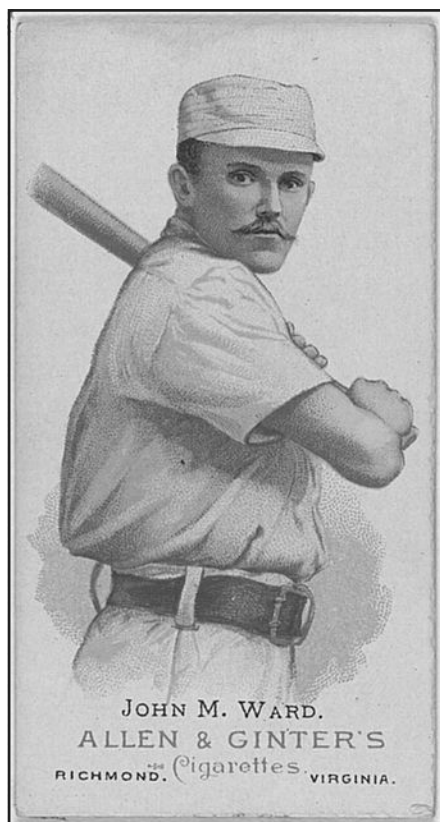
Ward was also a pioneering labor leader. In 1885, he established America's first sports union, the Brotherhood of Professional Base Ball Players. Initially designed to help sick, injured, or hard-up ballplayers and promote professional standards, the Brotherhood quickly evolved into something approaching a craft union for ballplayers. Ward had forward-looking attitudes on race as well. At a time when the color line was hardening in American society, and organized baseball had become a whites-only affair, Ward urged the Giants to sign an African-American pitcher.

If all this wasn't enough, Ward's social life was also noteworthy. In 1887 he married a New York actress and socialite, Helen Dauvray, who also happened to be a passionate baseball fan. “Her tiny hands beat each other rapturously at every victory of the Giants and her dark eyes were bedewed at every defeat,” re-

ported the *New York Times*. “But the thousands of spectators who observed Miss Dauvray's emotions little suspected that one of the Giants had any precedence over the others so far as her affections were concerned.” She had donated the Tiffany trophy that went to the World Series champion; it was the “Dauvray Cup” that her husband brought home at the end of the 1888 season. In *How to Become a Player*, the ever gallant Ward included a chapter explaining the basics of the game “for the benefit of those ladies whose escorts either cannot, or will not, answer their questions.” He also offered advice for his gentleman readers: “Whoever has not experienced the pleasure of taking a young lady to her first game of ball should seize the first opportunity to do so.”

Life was not all three-hit games and celebrity life for the great Monte Ward, however. His relationship with Helen Dauvray was strained almost from the start. He was carrying on an affair, and she knew it; she wanted to return to the stage, and he didn't want her to. They lived together for only a year and soon divorced.

His baseball career too was about to veer off in some unexpected directions. Following his World Series triumph, Ward captained a team of National League all-stars that traveled around the globe between October 1888 and April 1889 in an effort to promote the game overseas. It was a grand gesture, fitting for an emerg-



ing era of American nationalism and confidence on the international scene. But the world tour also helped set in motion one of the most significant upheavals in baseball's history. The man who organized and led the tour around the globe was Albert Goodwill Spalding. Soon after they returned home, he and Ward would face off in an epic struggle for the future of the game.

Spalding, a star pitcher in his younger years, now owned the Chicago White Stockings of the Na-

John M. Ward, New York Giants baseball card portrait, 1887, Library of Congress. Facing: Photo of Albert Goodwill Spalding, 1910, Bain Collection, Library of Congress.

tional League in addition to a burgeoning sporting goods empire. The game never had a more effective and more passionate salesman. Baseball, he once wrote, captured the nation because "it is the exponent of American Courage, Confidence, Combativeness; American Dash, Discipline, Determination; American Energy, Eagerness, Enthusiasm; American Pluck, Persistency, Performance; American Spirit, Sagacity, Success; American Vim, Vigor, Virility." (Spalding also basically created baseball's all-American birth myth, which conveniently featured a future Civil War hero, Abner Doubleday, in 1839 dreaming up the game in bucolic Cooperstown, New York. In fact, baseball had largely evolved from various children's games; if it ever had a proper birth moment, it was among young professionals in 1840s New York City.) Spalding envisioned the world tour as an opportunity to sell two things he loved above all: the game of baseball and the equipment that bore his name. Despite his background as a player, and despite his overwrought romanticism about the national pastime, Spalding approached his role as a team owner from the perspective of the captain of industry that he had become: the players were employees, and comfortably paid ones at that; and it was the owner's job to control costs and ensure a compliant workforce. Needless to say, he didn't think much of Ward's efforts with the Brotherhood.

The world tour had just reached Cairo, Egypt, in February 1889 when the players received news that, at their winter meetings in New York, the National League owners had adopted a major reform designed to reign in player salaries. They created a player classification system under which “Class A” players earned \$2,500, “Class B” players \$2,250, and so on, down to “Class E” players who earned \$1,500. The classifications scheme took into account not only player ability, but also “conduct, both on and off the field.”

Ward, who had already established himself as his generation’s most outspoken critic of baseball’s distinctive labor practices, saw the plan as an affront to the players. What made working as a professional ballplayer different from any other occupation was the “reserve clause,” a provision in player contracts under which an owner could “reserve” a number of players when the term of their contracts ended. The clause prohibited the player from negotiating with another team unless his team released him. As professional baseball was controlled by an agreement between the teams under which each team agreed to respect the player contracts of other teams, the reserved player faced three options: sign a new contract at the terms dictated by the owner; hold out and hope for better terms; or stop playing baseball. Owners defended the reserve clause as es-



sential to ensuring the stability of the game. It did indeed further this goal. But there was another reason, one they didn’t trumpet so proudly: it kept down player salaries. And here too it was effective. In the late 1880s, as club profits tripled, player salaries grew by only 30 percent, a fact at least partly attributable to the reserve system.

In 1887, Ward had a scathing attack on the reserve clause, titled “Is the Base-Ball Player a Chattel?” He compared the reserve clause to “a fugitive-slave law”: it “denies [the player] a harbor or a livelihood, and carries him back, bound and shackled, to the club from which he attempted to escape.” The remedy, according to Ward, was simple: get rid of “baseball law” and allow “the business of base-ball to be made to rest on the ordinary business basis.”

When he learned of the owners' classification plan, Ward was so incensed he threatened to abandon the world tour to come home and confront the owners. (The news that the Giants were trying to trade him only added to his frustration.) He suspected that Spalding had planned the entire trip just to get him and some of his allies out of the country in order to go forward with their plans. If this was indeed Spalding's plan (and there is no evidence it was), it backfired, as the tour ended up giving some of the game's top players long hours to share their grievances. The plan for the baseball revolution that would upend the game in 1890 might very well have been hatched in quiet conversation among the players while on Spalding's world tour. Nearly all the players on the tour would join Ward's revolt against the National League.

During the 1889 season, Ward began preparations for the creation of a rival major league, the Players League. Working in secret (he was, after all, still on the enemy's payroll), he found financial backing and convinced many of his fellow players to commit to the new league. Some aspects of the Players League looked familiar. The players were familiar—the new league lured many of the best National League players to its rosters. And the cities in which they played were familiar—the seven cities in which their eight teams played were all cities that already

had National League teams. But the business model behind the Players League was radically different from anything that had come before. Each club was run by an eight-man board, consisting of four players and four investors. The league was governed by a senate-like organization, with two representatives from each team (one elected by players, one by owners). Players had three-year contracts, and no reserve clause. Investors were promised the first \$10,000 of each club's net profit, with the rest to be divided among the players.

Spalding and the National League attacked the Players League. First, they turned to the courts: the Giants sued Ward for breach of contract. Ward had violated the terms of his reserve clause, they claimed, and they asked a New York state court to issue an injunction prohibiting Ward from playing for anyone else. The court denied the injunction. As the reserve clause failed to specify such essentials as Ward's salary and the terms of the renewed contract, the judge concluded that it was too indefinite to be treated as a binding contract for the 1890 season. The court also raised the disturbing question of whether, assuming the reserve clause were read to constitute a binding contract for the following season, the renewed contract would also include a reserve clause. If so, the player would be tied to his current team for as long as the team desired, while the team could release

a player with only 10 days' notice. This was rather absurd, according to the judge. "We have the spectacle presented of a contract which binds one party for a series of years and the other party for 10 days, and of the party who is itself bound for ten days coming into a court of equity to enforce its claims against the party bound for years." The judge concluded that the reserve clause was unenforceable for "want of fairness and of mutuality."

With the courts refusing to help, Spalding turned to public opinion. He pulled out all the rhetorical stops. What the players were doing was "secession," a "revolt," a "war"; the National League was confronting "hot headed anarchists" who were leading a "revolutionary movement."

But the fall of the Players League after just one season came not from Spalding's attacks in the press, nor from legal challenges. It came from the marketplace. The new league had the best players, but this was not enough. With three major leagues competing for a limited fan base, everyone suffered at the gate. At season's end, when Spalding opened negotiations with Players League investors, he pointedly excluded Ward and any other players. "[T]he monied men met with the monied men," as Spalding put it. The National League owners simply bought out their competition; several Players League clubs were integrated into a reconfigured National League. Ward's rev-

olution was over.

Ward returned to the National League, where he played four more seasons. He was still one of the best players in the league when he retired in 1894. He went on to be a successful lawyer, a gentleman farmer, and a top amateur golfer. Although he mended fences with organized baseball, his passion for the cause he had led never left him. In 1925, shortly before his death, he gave a speech—at an event to celebrate the National League, of all places—recounting the events of 1888–1890 in which he made clear that the war against the National League, while doomed, was justified.

For a brief moment, the Players League presented a radical alternative business model for professional sports, one in which the players and owners shared control of the game as well as its profits. With the failure of Ward's baseball revolution, the owner-dominated system lived on. In the following decades, various teams would go to court to have the reserve clause enforced against players who had jumped their contracts (a relatively common occurrence any time there was a rival league that refused to abide by the agreement that controlled the baseball monopoly). Judges, with only the rarest of exceptions, sided with the players, often citing Ward's case as authority on the matter. The reserve clause lived on, however, and it did so be-

cause the baseball monopoly, while periodically challenged, remained in place. As long as owners respected the contracts of their on-the-field competitors, they did not need the courts. For this reason, the most significant legal challenges to baseball's unique labor practices came in the realm of antitrust, not contract law. But baseball law survived this challenge too, as the United States Supreme Court granted, and then twice reaffirmed, that federal antitrust law did not apply to professional baseball.

When change eventually came in the 1970s, it was at the hands of another organized players movement, but this time it was achieved not through a rival league but through labor negotiations (with a critical assist from a sympathetic arbiter). Today, major league baseball operates in a way that has some similarities to the core premise of the alternative model Ward had offered. The game is governed, in large part, through collective bargaining agreements between players and owners. With the skyrocketing of player salaries after

the fall of the reserve clause, the game's profits are far more evenly distributed between players and owners. It took almost a century, but John Montgomery Ward's vision for major league baseball has, in some part, been realized. ♦

Sources and Further Reading

- Stuart Banner, *The Baseball Trust: A History of Baseball's Antitrust Exemption* (2013).
- Robert F. Burk, *Never Just a Game: Players, Owners, & American Baseball to 1920* (1994).
- Brian Di Salvatore, *A Clever Base-Ballist: The Life and Times of John Montgomery Ward* (1999).
- Mark Lamster, *Spalding's World Tour: The Epic Adventure That Took Baseball Around the Globe—And Made It America's Game* (2006).
- Harold Seymour, *Baseball: The Early Years* (1960).

Christopher W. Schmidt graduated from Dartmouth College and received his law degree from Harvard Law School and a Ph.D. in the History of American Civilization from Harvard University. Prior to joining the faculty at Chicago-Kent in 2008, he taught history at Phillips Academy, Andover, and Dartmouth College. His scholarship focuses mostly on constitutional law, legal history, and civil rights, with occasional teaching and writing forays into sports law and history.